

REMARKSSpecification

Applicant has amended the specification to update the status of the continuity data as requested by Examiner.

Claim Rejections – 35 U.S.C. §112

Claims 1-7, 23-31, 47-56, 72-79, and 95-101 stand rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Examiner asserts that the specification as originally filed fails to provide support for the limitation of the first side being flat.

Information contained in any one of the specification, claims or drawings of the application as filed may be added to any other part of the application without introducing new matter. MPEP 2163.06.

Support for the limitation of the first side being flat is found in FIGS. 1, 3, 4A, and 4B of the application as originally filed, which clearly show a first side(top surface) that is flat. Additional support is found in Paragraph 44, Page 12 of the specification as originally filed, where it states, “If skin layer 104 is formed from expanded vinyl, the vinyl surface may be smooth or textured.” *Merriam Webster’s Collegiate Dictionary, 10th Edition* provides the following definitions:

smooth <i>adj</i>	1 a (1) : having a continuous or even surface
flat <i>adj</i>	3 : having a relatively smooth or even surface
	4: arranged or laid out so as to be level or even

Applicant respectfully submits that the limitation of the first side being flat is supported by FIGS. 1, 3, 4A, and 4B showing a relatively smooth and even surface and by the specification specifically stating that the surface may be smooth.

Claims 2, 26, 51, and 74 have been canceled and Claim 100 has been amended to eliminate possible inconsistencies between these claims reciting a variable distance between the first and second sides and their respective parent claims reciting a first side being flat.

Therefore, Applicant respectfully submits that Claims 1-7, 23-31, 47-56, 72-79, and 95-101 comply with the written description requirement under 35 U.S.C. §112, first paragraph, and that they are currently in condition for allowance.

Reconsideration and withdrawal of the rejection is respectfully requested.

Double Patenting

Claims 1, 2, 3, 4, 5, 23, 24, 25, 26, 27, 28, 29, 47, 48, and 49 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 2, 1, 6, 7, 10, 12, 1, 2, 1, 6, 7, 10, 1 and 12 of U.S. Patent No. 6,854,163.

As pointed out by Examiner, a timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. 37 CFR 1.130(b).


Applicant has included a terminal disclaimer in compliance with 37 CFR 1.321(c) along with this response in order to overcome this obviousness-type double patenting rejection.

Therefore, Applicant respectfully submits that Claims 1, 2, 3, 4, 5, 23, 24, 25, 26, 27, 28, 29, 47, 48, and 49 are currently in condition for allowance. Reconsideration and withdrawal of the rejection is respectfully requested.

If the Examiner has any questions regarding this application, the Examiner may telephone the undersigned at 775-586-9500.

Respectfully submitted,
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